

**MINUTES OF THE  
BUSINESS AND LABOR INTERIM COMMITTEE**  
Wednesday, October 17, 2007 – 9:00 a.m. – Room W125 House Building

**Members Present:**

Sen. Kevin T. VanTassell, Senate Chair  
Rep. Stephen D. Clark, House Chair  
Sen. Gene Davis  
Sen. John W. Hickman  
Sen. Wayne L. Niederhauser  
Rep. Jackie Biskupski  
Rep. Ben C. Ferry  
Rep. Kevin S. Garn  
Rep. Todd E. Kiser  
Rep. Karen W. Morgan  
Rep. Michael T. Morley  
Rep. Paul A. Neuenschwander  
Rep. Gordon E. Snow  
Rep. Mark W. Walker

**Members Absent:**

Sen. Dan R. Eastman  
Sen. Ed Mayne  
Rep. David Clark  
Rep. Carl W. Duckworth  
Rep. James A. Dunnigan

**Staff Present:**

Mr. Stewart E. Smith, Policy Analyst  
Ms. Patricia Owen, Associate General Counsel  
Ms. Phalin L. Flowers, Legislative Secretary

**Note:** A list of others present, a copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

**1. Committee Business**

Chair Clark called the meeting to order at 9:15 a.m. He excused Sen. Mayne and Rep. Duckworth from the meeting.

**MOTION:** Rep. Neuenschwander moved to approve the minutes of the September 19, 2007 meeting. The motion passed unanimously with Rep. Garn, Rep. Morgan, and Rep. Morley absent for the vote.

Ms. Owen distributed and discussed "Update on Discussions: Information Related to Employee Status and Eligibility to Work."

**2. Business Resource Centers**

Mr. Jason Perry, Director, GOED (Governor's Office of Economic Development), explained that Utah's economy is strong, but there is a need for business resource centers to assist business development.

Mr. Gary Harter, Managing Director for Business Creation, GOED, introduced the BRC (Utah Business Resource Centers) organizational board and explained that BRCs are an important resource for small business owners and entrepreneurs to stay in business.

Ms. Cece Mitchell, Chair, BRC Organizational Board, and Zions Bank, discussed the solutions the BRC has developed to help small business owners become successful and the benefits BRCs can provide for small business owners and entrepreneurs.

Mr. Steve Cloward, Director, Davis Business Alliance, Davis Applied Technology College, distributed and discussed a pamphlet called "Entrepreneurs Change Our World." He explained the purpose of the Davis Business Alliance and its efforts to support small businesses and entrepreneurs.

### **3. Statutes Granting Agencies Authority to Define Criminal Behavior**

Ms. Owen discussed a letter from the chairs of the Administrative Rules Review Committee to the Committee chairs, which was also mailed to committee members prior to the meeting. She explained that the Administrative Rules Review Committee requested that the Committee review statutes that impose criminal penalties for a violation of an administrative rule.

Mr. Wayne Klein, Director, Division of Securities, discussed reasons why the current statutes, which make a violation of an administrative rule in the securities area a criminal violation, should be maintained.

Mr. Alan Hennebold, Deputy Commissioner, Labor Commission, gave an example of rulemaking authority used by the Labor Commission and explained that the Labor Commission has not defined what constitutes a crime, but rather the Legislature defined the crime in relationship to a violation of an administrative rule. He explained that rules used by the Labor Commission are necessary for occupational safety.

Mr. Neil Gooch, Deputy Insurance Commissioner, Department of Insurance, explained that an individual must intentionally violate a Department of Insurance rule for the violation to be considered a criminal penalty, and that the Department of Insurance does not have authority to impose that penalty but must involve a district court to prosecute an individual. Mr. Gooch further discussed definitions of criminal intent.

Mr. Kent Michie, Commissioner, Department of Insurance, said that it is appropriate for the Legislature to decide if criminal definitions need to be updated and that he believes the Department of Insurance is correctly following standards that were set by the Legislature.

Mr. Gary Thorup, private attorney, highlighted that he believes that at the time the Legislature gave state agencies rulemaking authority, the Legislature was aware of all the current rules of those agencies, but that state agencies have created new rules and updated existing rules since rulemaking authority was originally given.

### **4. Financial Institutions**

#### **A. Report: Department of Financial Institutions**

Mr. Ed Leary, Commissioner, Department (Department of Financial Institutions), introduced Mr. Paul Allred, Deputy Commissioner, Department.

Mr. Allred discussed "Fifth Report of the Department of Financial Institutions Pursuant to 70C-8-102 Consumer Credit Education," which was mailed to committee members prior to the meeting. He also discussed and provided to committee staff "Department of Financial Institutions: Consumer Tips" and "Money Talks: If You're Not Careful, It Just Says 'Goodbye.'" He explained the steps the Department has taken in educating the public in making financial decisions and managing their credit and discussed industry education efforts.

## **B. Payday Lending Working Group Report**

Ms. Owen distributed and discussed "Update on Discussions Related to Collection and Reporting of Data Related to Deferred Deposit Lending." She gave an overview of the discussions and explained the initial recommendations resulting from the discussions regarding data collection of deferred deposit lending.

Mr. Leary explained that the Department studied what other states are doing to collect data from payday lenders. He said that the Department does not receive many complaints from users of payday lending services, and that one-third of those complaints involve Internet payday lending companies. Mr. Leary said that he believes additional data collection is warranted in the payday lending industry.

Rep. LaWanna Shurtliff thanked the Committee for moving forward with the study of data collection from payday lending companies, and spoke in support of the data collection.

Ms. Laura Polacheck, Advocacy Director, American Association of Retired Persons Utah, thanked the Committee and the Department for their work regarding payday lending companies and spoke in support of additional regulation for the industry.

Ms. Linda Hilton, Executive Director, Coalition of Religious Communities, said that 12 states and the District of Columbia have outlawed payday lending. She thanked the Committee and the Department, but voiced a concern about the recommendation related to disclosure of the data. She stated that she believes the public needs to have access to the information that is collected from the payday lending industry.

Mr. Tracy Rawle, Officer of Check City and spokesperson for the Association (Utah Consumer Lending Association), thanked the Committee for studying issues with the payday lending industry. He said the Association is proud of its track record for minimal complaints and said it is willing to work with the Legislature.

## **C. Repeal of Assumption of Indebtedness on Real Property Legislation**

Ms. Owen discussed 2008 General Session draft legislation, "Repeal Provisions Related to Assumption of Indebtedness on Residential Real Property," which was mailed to committee members prior to the meeting.

**MOTION:** Sen. Hickman moved to pass 2008 General Session draft legislation, "Repeal Provisions Related to Assumption of Indebtedness on Residential Real Property" as a committee bill. The motion passed unanimously with Rep. Biskupski, Rep. Ferry, and Rep. Morley absent for the vote.

## **5. Review Process of Health Insurance Mandates**

Ms. Owen distributed and discussed "Status of Review of Mandatory Obligations on Health Insurers," "2006 Health Insurance Market Report," and "Introduction to Working Draft."

Mr. Jeff Holly, Research Analyst, Department of Insurance, said that the study of health insurance mandates requires an in-depth and time-consuming review of the mandate.

Mr. Michie explained that the Department of Insurance does not currently have the resources to provide the in-depth study required for the Committee to review health insurance mandates. He explained that the

Department of Insurance would require an actuary and an economist in its health division before it could conduct all the studies.

Mr. Kelly Atkinson, Executive Director, Utah Health Insurance Association, said that if the Committee were more educated on what the health insurance mandates require, he believes many of the mandates would be repealed.

**6. Other Items / Adjourn**

**MOTION:** Sen. Davis moved to adjourn the meeting. The motion passed unanimously with Rep. Biskupski, Rep. Morgan, and Rep. Snow absent for the vote.

Chair Clark adjourned the meeting at 11:54 a.m.